

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member V. Manuel Pérez
~~(Coauthor: Assembly Member Gorell)~~ *Coauthors: Assembly Members*
Daly, Fox, Fong, Gorell, Gray, Nestande, and Weber)
~~(Coauthor: Senator Galgiani)~~ *Coauthors: Senators Calderon, Galgiani,*
and Lieu)

February 21, 2013

An act to amend Section 13997.6 of, and to add Article 4.5 (commencing with Section 12097) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, and to amend Sections 17052.12 and 23609 of, and to add Sections 6377, 17053.87, and 23687 to, the Revenue and Taxation Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, V. Manuel Pérez. Economic development.

(1) The Economic Revitalization Act establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other duties, serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law establishes the California Economic Development

Fund holding funds that, upon appropriation by the Legislature, GO-Biz may use for economic development purposes, as specified.

This bill would create the California Innovation Hub Program (iHub Program) within GO-Biz to create regional offices that would provide specialized counseling, training, and networking services to assist entrepreneurs establish and grow businesses for local and in-state job retention, creation, and future expansion. This bill would authorize GO-Biz, in collaboration with the Department of General Services, to identify unoccupied and underutilized real property owned or leased by the state, and use that real property to support the iHub Program, as specified. This bill would modify the California Economic Development Fund to be a continuously appropriated fund for the economic development purposes of GO-Biz, and in doing so, would make an appropriation.

(2) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes.

On and after January 1, 2014, this bill would exempt from those taxes the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of tangible personal property, as specified.

(3) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit for certain research and development expenses, as provided.

This bill would, for taxable years commencing on and after January 1, 2014, increase the credit for research and development expenses, as provided.

This bill would, for taxable years beginning on or after January 1, 2014, allow a credit against those taxes for a qualified taxpayer, as defined, of 40% of the amount of a qualified contribution, as defined, made in that taxable year by a business entity to a postsecondary educational institution for curriculum or research leading to job opportunities in the private sector, or consultation services associated with the establishment of curriculum or research leading to job opportunities in the private sector, where the business entity and the

postsecondary educational institution agree that there is a substantial potential for the future employment of students as a result of the contribution.

(4) This bill would provide that the provisions of this bill are severable.

(5) The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would provide that the sales and use tax exemption authorized by the bill does not apply to local sales and use taxes and transactions and use taxes.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Innovation and Jobs Act.
- 3 SEC. 2. The Legislature hereby finds and declares:
- 4 (a) California, in the last 10 years, has declined from the sixth
- 5 largest economy in the world to the ninth, now behind Brazil.
- 6 During that time, manufacturing declined in California from 1.865
- 7 million jobs to 1.257 million jobs.
- 8 (b) California has experienced continual budget deficits
- 9 beginning with the “dot com” bust which occurred in 2000, and
- 10 has never fully recovered. Every year, the Legislature has had to

1 grapple with too few revenues to meet a continuing demand for
 2 public services.

3 (c) The solution to California’s decline in its economic status,
 4 and thus, lack of revenues, is not simply to cut the budget and raise
 5 taxes. Instead, it lies in developing a long-term economic plan for
 6 the state that envisions state government becoming a better working
 7 partner to attract private sector capital to spur economic
 8 development and job growth.

9 (d) California needs to compete globally. It needs to expand its
 10 leadership as an exporter of goods. California needs to recognize
 11 its biggest asset in combating a fatigued economy is its innovative
 12 human capital; it needs to recognize that the private sector, through
 13 the “Innovation Economy,” must be incentivized to reach new
 14 heights and growth potential. State and local government need to
 15 be the Innovation Economy’s partner and not a roadblock to
 16 success.

17 (e) California is uniquely positioned to unleash its full economic
 18 potential. We see on a daily basis the convergence of innovative
 19 technologies being integrated into our daily lives that most
 20 Californians take for granted, because these technologies were
 21 invented and developed in California: new advancements in
 22 biopharmaceuticals that improve people’s lives on a daily basis,
 23 advancements in smart phone technology, and Internet Web sites
 24 that allow Californians to be connected to the world have
 25 predominately been developed in California.

26 (f) California needs to invest in the Innovation Economy by
 27 eliminating roadblocks in state law and regulation and developing
 28 a tax system that rewards capital expenditures in order to ensure
 29 that the private sector will invest its financial capital in combination
 30 with the intellectual capital that California has to offer through its
 31 education system, in particular its universities.

32 SEC. 3. Article 4.5 (commencing with Section 12097) is added
 33 to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government
 34 Code, to read:

35
 36 Article 4.5. California Innovation ~~Hub Program~~ *Initiatives*
 37

38 12097. (a) The California Innovation Hub Program, also
 39 known as the “iHub Program,” is established within the office.

1 (b) The iHub Program shall be under the authority of the
2 director.

3 (c) The office shall set guidelines for approval, designation,
4 operation, reporting, and dedesignation of iHubs.

5 (d) The office may designate specific regions throughout the
6 state as an iHub through a competitive application process.

7 (1) An eligible applicant shall be one or more of the following:

8 (A) A fully accredited institution of higher education.

9 (B) A private nonprofit corporation engaged in economic
10 development activities.

11 (C) A county or municipality in this state that has a preexisting
12 economic development department or program or both.

13 (D) A public economic development institution, including a
14 workforce investment board or an economic development
15 corporation.

16 (2) An applicant's proposal for iHub designation shall include,
17 but shall not be limited to, all of the following information:

18 (A) A statement of purpose.

19 (B) A signed statement of cooperation and a description of the
20 roles and relationships of each entity involved in the partnership.

21 (C) A list of goals to be achieved with the designation of the
22 iHub.

23 (D) A list of iHub assets and resources.

24 (E) A focus area of the iHub, including industry sectors or other
25 targeted areas for development and growth.

26 (e) The office may designate an iHub for a term of not more
27 than five years. An iHub may reapply for a designation.

28 (f) (1) The iHub designation shall not be official until a
29 memorandum of understanding is entered into by the applicant
30 and the office. The memorandum of understanding shall include
31 goals and performance standards and other related requirements
32 as determined by the office.

33 (2) For an iHub designated by the office before January 1, 2014,
34 the iHub partnership shall have until September 1, 2014, to enter
35 into a memorandum of understanding with the office that meets
36 the requirements of this article.

37 (g) More than one iHub may be designated in an area to the
38 extent that there is a clear distinction between the focus area of
39 each iHub.

1 (h) An iHub shall, to the extent feasible, do one or more of the
2 following:

3 (1) Work in collaboration with the activities of the office as its
4 primary statewide partner.

5 (2) Coordinate activities with the Employment Training Panel,
6 the California Workforce Investment Board, the California
7 Community Colleges Chancellor's Office, the University of
8 California, the California State University, and other state and
9 local economic, business, and workforce development programs.

10 (3) Provide assistance to the office relating to the attraction,
11 relocation, and expansion of businesses within the state and
12 international trade opportunities.

13 (4) Report to the office on the status of the state's innovation
14 economy and provide general advice and support on policy issues
15 related to innovation, technology, entrepreneurship, and small
16 business assistance.

17 (i) The duties of an iHub shall include, but not be limited to, all
18 of the following:

19 (1) Provide specialized one-on-one counseling and technical
20 assistance in the areas of entrepreneurial business planning and
21 management, financing, and marketing for small businesses with
22 the greatest potential for local and in-state job retention, creation,
23 and future in-state expansion.

24 (2) Provide expert business startup advice to entrepreneurs,
25 including, but not limited to, advising on the tools for starting a
26 business and how to access financing opportunities and other key
27 resources.

28 (3) Conduct business workshops, seminars, and conferences
29 with local partners, including, but not limited to, state universities,
30 community colleges, local governments, state and federal service
31 providers, private industry, workforce investment boards and
32 agencies, small business development centers, microenterprise
33 development organizations, small business service agencies,
34 economic development organizations, and chambers of commerce.

35 (4) Provide services to link technology startups and businesses
36 to research and development institutions for the purposes of
37 transferring new technology to a new or an expanding business
38 sector, or accessing scientific knowledge and equipment.

39 (j) An iHub shall annually report to the office on its progress
40 in meeting the goals and performance standards as described in

1 the memorandum of understanding with the office. The office shall
2 annually post the information from these reports on the office's
3 Internet Web site and provide notice to the Governor and relevant
4 policy committees of the Legislature that the information is
5 available on the Internet Web site.

6 12097.1. (a) The office shall collaborate with the Department
7 of General Services to identify unoccupied and underutilized real
8 property owned or leased by the state that may be allowed by the
9 Constitution and other applicable laws to be used as provided in
10 this section by the iHub Program. Upon approval by the director,
11 identified property may be used by the iHub Program for purposes
12 including, but not limited to, assisting iHub regions to establish
13 proof of concept and research and development centers, incubators,
14 accelerators, and demonstration sites, thereby promoting and
15 enhancing the state's innovation economy, entrepreneur
16 communities, and bringing economic, environmental, or social
17 value to the state.

18 (b) In lieu of a cash match, the fair market lease value of
19 nonoccupied or underutilized real property owned or leased by the
20 state as identified pursuant to subdivision (a) may be used as
21 in-kind matching funds to enhance an iHub proposal to increase
22 the likelihood of qualifying for federal funding opportunities.

23 12097.2. (a) In any year state owned or leased real property
24 is utilized pursuant to Section 12097.1, the office shall issue a
25 report to the Legislature by April 1 of the following year on the
26 use of the real property by office in relation to the activities and
27 performance goals of the iHub Program, in compliance with
28 Section 9795. The report shall also be posted on the office's
29 Internet Web site.

30 (b) To the extent the information is available, the report pursuant
31 to subdivision (a) shall also include the number of businesses
32 assisted and the manner in which they were assisted, the number
33 of employees employed by the businesses, the number of jobs
34 created, the number of jobs retained, the industry sectors of the
35 businesses assisted, identification of the partnerships with state,
36 federal, and local agencies that led to increased entrepreneurial
37 and innovation-based economic activity, and the amount of federal
38 grant funding received by the iHubs during the reporting period.

39 SEC. 4. Section 13997.6 of the Government Code is amended
40 to read:

1 13997.6. (a) The California Economic Development Fund is
 2 hereby created in the State Treasury for the purpose of receiving
 3 federal, state, local, and private economic development funds, and
 4 receiving repayment of loans or grant proceeds and interest on
 5 those loans or grants.

6 (b) Notwithstanding Section 13340, moneys in the fund may
 7 be expended by the Governor’s Office of Business and Economic
 8 Development, without regard to fiscal year, to provide matching
 9 funds for loans or grants to public agencies, nonprofit
 10 organizations, and private entities, and for other economic
 11 development purposes, consistent with the purposes for which the
 12 moneys were received.

13 SEC. 5. Section 6377 is added to the Revenue and Taxation
 14 Code, to read:

15 6377. (a) (1) On and after January 1, 2014, there are exempted
 16 from the taxes imposed by this part the gross receipts from the sale
 17 of, and the storage, use, or other consumption in this state of,
 18 tangible personal property purchased for use by a qualified person
 19 to be used primarily in any stage of the manufacturing, processing,
 20 refining, fabricating, or recycling of tangible personal property,
 21 beginning at the point any raw materials are received by the
 22 qualified person and introduced into the process and ending at the
 23 point at which the manufacturing, processing, refining, fabricating,
 24 or recycling has altered property to its completed form, including
 25 packaging, if required.

26 (2) The exemption established by this section shall not apply
 27 to the gross receipts from the sale of, or the storage, use, or other
 28 consumption of, any of the following:

29 (A) Tangible personal property that is used primarily in
 30 administration, general management, or marketing.

31 (B) Consumables with a useful life of less than one year.

32 (C) Furniture or inventory or equipment used in the extraction
 33 process, or equipment used to store finished products that have
 34 completed the manufacturing process.

35 (b) For purposes of this section:

36 (1) “Fabricating” means to make, build, create, produce, or
 37 assemble components or property to work in a new or different
 38 manner.

39 (2) “Manufacturing” means the activity of converting or
 40 conditioning tangible personal property by changing the form,

1 composition, quality, or character of the tangible personal property
2 for ultimate sale at retail or use in the manufacturing of a product
3 to be ultimately sold at retail. Manufacturing includes any
4 improvements to tangible personal property that result in a greater
5 service life or greater functionality than that of the original tangible
6 personal property. Manufacturing includes the generation of
7 electricity.

8 (3) “Primarily” means 50 percent or more of the time. For
9 purposes of subdivision (a), “primarily” means tangible personal
10 property used 50 percent or more of the time in an activity
11 described in subdivision (a).

12 (4) “Process” means the period beginning at the point at which
13 any raw materials are received by the qualified person and
14 introduced into the manufacturing, processing, refining, fabricating,
15 or recycling activity of the qualified person and ending at the point
16 at which the manufacturing, processing, refining, fabricating, or
17 recycling activity of the qualified person has altered tangible
18 personal property to its completed form, including packaging, if
19 required. Raw materials shall be considered to have been
20 introduced into the process when the raw materials are stored on
21 the same premises where the qualified person’s manufacturing,
22 processing, refining, fabricating, or recycling activity is conducted.
23 Raw materials that are stored on premises other than where the
24 qualified person’s manufacturing, processing, refining, fabricating,
25 or recycling activity is conducted, shall not be considered to have
26 been introduced into the manufacturing, processing, refining,
27 fabricating, or recycling process.

28 (5) “Processing” means the physical application of the materials
29 and labor necessary to modify or change the characteristics of
30 tangible personal property.

31 (6) “Qualified person” means either of the following:

32 (A) A person that is primarily engaged in those lines of business
33 classified in Industry Groups 3111 to 3399, inclusive, Industry
34 Group 5112, NAICS Industry 221119 or 541711 of the North
35 American Industry Classification System (NAICS) published by
36 the United States Office of Management and Budget (OMB), 2007
37 edition.

38 (B) An affiliate of a person described in subparagraph (A)
39 provided that the affiliate is a member of the qualified person’s
40 unitary group for which a combined report is required to be filed

1 under Article 1 (commencing with Section 25101) of Chapter 17
2 of Part 11.

3 (7) “Refining” means the process of converting a natural
4 resource to an intermediate or finished product.

5 (8) “Tangible personal property” includes, but is not limited to,
6 all of the following:

7 (A) Machinery and equipment, including component parts and
8 contrivances such as belts, shafts, moving parts, and operating
9 structures.

10 (B) All equipment or devices used or required to operate,
11 control, regulate, or maintain the machinery, including, without
12 limitation, computers, data processing equipment, and computer
13 software, together with all repair and replacement parts with a
14 useful life of one or more years therefor, whether purchased
15 separately or in conjunction with a complete machine and
16 regardless of whether the machine or component parts are
17 assembled by the qualified person or another person.

18 (C) Special purpose buildings and foundations used as an
19 integral part of the manufacturing, processing, refining, or
20 fabricating process, or that constitute a research or storage facility
21 used during the manufacturing process. Buildings used solely for
22 warehousing purposes after completion of the manufacturing
23 process are not included.

24 (D) Tangible personal property used in recycling.

25 (c) An exemption shall not be allowed under this section unless
26 the purchaser furnishes the retailer with an exemption certificate,
27 completed in accordance with any instructions or regulations as
28 the board may prescribe, and the retailer retains the exemption
29 certificate in its records. The exemption certificate shall contain
30 the sales price of the tangible personal property, the sale of, or the
31 storage, use, or other consumption of, which is exempt pursuant
32 to subdivision (a) and shall be furnished to the board upon request.

33 (d) Notwithstanding subdivision (a), the exemption provided
34 by this section shall not apply to any sale or use of tangible
35 personal property which, within one year from the date of purchase,
36 is either removed from California or converted from an exempt
37 use under subdivision (a) to some other use not qualifying for the
38 exemption or used in a manner not qualifying for exemption.

39 (e) If a purchaser certifies in writing to the seller that the tangible
40 personal property purchased without payment of the tax will be

1 used in a manner entitling the seller to regard the gross receipts
2 from the sale as exempt from the sales tax pursuant to this section,
3 and within one year from the date of purchase, the purchaser (1)
4 removes that tangible personal property outside California, (2)
5 converts that tangible personal property for use in a manner not
6 qualifying for the exemption, or (3) uses that tangible personal
7 property in a manner not qualifying for the exemption, the
8 purchaser shall be liable for payment of sales tax, with applicable
9 interest, as if the purchaser were a retailer making a retail sale of
10 the tangible personal property at the time the tangible personal
11 property is so removed, converted, or used, and the sales price of
12 the tangible personal property to the purchaser shall be deemed
13 the gross receipts from that retail sale. The purchaser shall notify
14 the State Board of Equalization within 90 days of: (1) taking the
15 tangible personal property out of state, (2) converting the tangible
16 personal property to an ineligible use, or (3) using the tangible
17 personal property in a manner not qualifying for the exemption.

18 (f) The exemption established by this section shall apply to a
19 lease of tangible personal property classified as a “continuing sale”
20 or “continuing purchase” in accordance with Section 6006.1 or
21 6010.1, and to the rentals payable pursuant to such a lease, provided
22 the lessee is a qualified person and the tangible personal property
23 is used in an activity described in subdivision (a).

24 (g) At the time necessary information technologies and
25 electronic data warehousing capabilities of the board are
26 sufficiently established, the board shall determine an efficient
27 means by which qualified persons may electronically apply for,
28 and receive, an exemption certificate that contains information
29 that would assist them in complying with this part with respect to
30 the exemption established by this section.

31 (h) Notwithstanding the Bradley-Burns Uniform Local Sales
32 and Use Tax Law (Part 1.5 (commencing with Section 7200)) and
33 the Transactions and Use Tax Law (Part 1.6 (commencing with
34 Section 7251)), the exemption established by this section shall not
35 apply with respect to any tax levied by a county, city, or district
36 pursuant to, or in accordance with, either of those laws.

37 SEC. 6. Section 17052.12 of the Revenue and Taxation Code
38 is amended to read:

39 17052.12. For each taxable year beginning on or after January
40 1, 1987, there shall be allowed as a credit against the “net tax” (as

1 defined by Section 17039) for the taxable year an amount
2 determined in accordance with Section 41 of the Internal Revenue
3 Code, except as follows:

4 (a) For each taxable year beginning before January 1, 1997, the
5 reference to “20 percent” in Section 41(a)(1) of the Internal
6 Revenue Code is modified to read “8 percent.”

7 (b) (1) For each taxable year beginning on or after January 1,
8 1997, and before January 1, 1999, the reference to “20 percent”
9 in Section 41(a)(1) of the Internal Revenue Code is modified to
10 read “11 percent.”

11 (2) For each taxable year beginning on or after January 1, 1999,
12 and before January 1, 2000, the reference to “20 percent” in Section
13 41(a)(1) of the Internal Revenue Code is modified to read “12
14 percent.”

15 (3) For each taxable year beginning on or after January 1, 2000,
16 the reference to “20 percent” in Section 41(a)(1) of the Internal
17 Revenue Code is modified to read “15 percent.”

18 (4) For each taxable year beginning on or after January 1, 2014,
19 and before January 1, 2015, the reference to “20 percent” in Section
20 41(a)(1) of the Internal Revenue Code is modified to read “18
21 percent.”

22 (5) For each taxable year beginning on or after January 1, 2015,
23 and before January 1, 2016, the reference to “20 percent” in Section
24 41(a)(1) of the Internal Revenue Code is modified to read “21
25 percent.”

26 (6) For each taxable year beginning on or after January 1, 2016,
27 and before January 1, 2017, the reference to “20 percent” in Section
28 41(a)(1) of the Internal Revenue Code is modified to read “24
29 percent.”

30 (7) For each taxable year beginning on or after January 1, 2017,
31 and before January 1, 2018, the reference to “20 percent” in Section
32 41(a)(1) of the Internal Revenue Code is modified to read “27
33 percent.”

34 (8) For each taxable year beginning on or after January 1, 2018,
35 the reference to “20 percent” in Section 41(a)(1) of the Internal
36 Revenue Code is modified to read “30 percent.”

37 (c) Section 41(a)(2) of the Internal Revenue Code shall not
38 apply.

39 (d) “Qualified research” shall include only research conducted
40 in California.

1 (e) In the case where the credit allowed under this section
2 exceeds the “net tax,” the excess may be carried over to reduce
3 the “net tax” in the following year, and succeeding years if
4 necessary, until the credit has been exhausted.

5 (f) (1) With respect to any expense paid or incurred after the
6 operative date of Section 6378, Section 41(b)(1) of the Internal
7 Revenue Code is modified to exclude from the definition of
8 “qualified research expense” any amount paid or incurred for
9 tangible personal property that is eligible for the exemption from
10 sales or use tax provided by Section 6378.

11 (2) For each taxable year beginning on or after January 1, 1998,
12 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
13 Internal Revenue Code, relating to contract research expenses, is
14 modified to read “this part or Part 11 (commencing with Section
15 23001).”

16 (g) (1) For each taxable year beginning on or after January 1,
17 2000:

18 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
19 the Internal Revenue Code is modified to read “one and forty-nine
20 hundredths of one percent.”

21 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
22 the Internal Revenue Code is modified to read “one and
23 ninety-eight hundredths of one percent.”

24 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
25 the Internal Revenue Code is modified to read “two and forty-eight
26 hundredths of one percent.”

27 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
28 election under Section 41(c)(4)(A) of the Internal Revenue Code
29 may be made for any taxable year of the taxpayer beginning on or
30 after January 1, 1998. That election shall apply to the taxable year
31 for which made and all succeeding taxable years unless revoked
32 with the consent of the Franchise Tax Board.

33 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
34 gross receipts, is modified to take into account only those gross
35 receipts from the sale of property held primarily for sale to
36 customers in the ordinary course of the taxpayer’s trade or business
37 that is delivered or shipped to a purchaser within this state,
38 regardless of f.o.b. point or any other condition of the sale.

39 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
40 election of alternative simplified credit, shall not apply.

1 (h) Section 41(h) of the Internal Revenue Code, relating to
2 termination, shall not apply.

3 (i) Section 41(g) of the Internal Revenue Code, relating to
4 special rule for passthrough of credit, is modified by each of the
5 following:

6 (1) The last sentence shall not apply.

7 (2) If the amount determined under Section 41(a) of the Internal
8 Revenue Code for any taxable year exceeds the limitation of
9 Section 41(g) of the Internal Revenue Code, that amount may be
10 carried over to other taxable years under the rules of subdivision
11 (e); except that the limitation of Section 41(g) of the Internal
12 Revenue Code shall be taken into account in each subsequent
13 taxable year.

14 (j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

15 (k) Section 41(b)(3)(D) of the Internal Revenue Code, relating
16 to amounts paid to eligible small businesses, universities, and
17 federal laboratories, shall not apply.

18 (l) Section 41(f)(6), relating to energy research consortium,
19 shall not apply.

20 SEC. 7. Section 17053.87 is added to the Revenue and Taxation
21 Code, to read:

22 17053.87. (a) For each taxable year beginning on or after
23 January 1, 2014, there shall be allowed to a qualified taxpayer as
24 a credit against the “net tax,” as defined in Section 17039, an
25 amount equal to 25 percent of the amount of a qualified
26 contribution that is made by a qualified taxpayer in that taxable
27 year.

28 (b) For purposes of this section, the following terms have the
29 following meanings:

30 (1) “Qualified contribution” means a monetary contribution by
31 a business entity to a regionally accredited postsecondary
32 educational institution for curriculum or research leading to job
33 opportunities in the private sector, or consultation services
34 associated with the establishment of curriculum or research leading
35 to job opportunities in the private sector, where the business entity
36 and the postsecondary educational institution agree that there is a
37 substantial potential for the future employment of students as a
38 result of the contribution.

39 (2) “Qualified taxpayer” means a business entity that makes a
40 qualified contribution to a postsecondary educational institution.

1 (c) In the case where the credit allowed by this section exceeds
2 the “net tax,” the excess may be carried over to reduce the “net
3 tax” in the following taxable year, and succeeding nine taxable
4 years if necessary, until the credit is exhausted.

5 (d) (1) The Franchise Tax Board may prescribe rules,
6 guidelines, or procedures necessary or appropriate to carry out the
7 purposes of this section, including, but not limited to:

8 (A) Requiring the regionally accredited postsecondary institution
9 to provide the taxpayer with a tax credit certificate that the taxpayer
10 can use to document the contribution. The certificate shall be on
11 a form prescribed by the Franchise Tax Board.

12 (B) Requiring the regionally accredited postsecondary institution
13 to annually provide a list to the Franchise Tax Board of each
14 taxpayer that made a contribution and was issued a certificate
15 during the tax year. The list shall include the name of the taxpayer,
16 the taxpayer’s tax ID number, identification of the type of
17 curriculum or research to be developed, and the amount of money
18 contributed.

19 (C) Requiring the regionally accredited postsecondary institution
20 to retain a record of the contribution and use of the funds for 10
21 years following the first year in which the institution reported the
22 contribution pursuant to subparagraph (B).

23 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
24 Division 3 of Title 2 of the Government Code does not apply to
25 any standard, criterion, procedure, determination, rule, notice, or
26 guideline established or issued by the Franchise Tax Board
27 pursuant to this section.

28 SEC. 8. Section 23609 of the Revenue and Taxation Code is
29 amended to read:

30 23609. For each taxable year beginning on or after January 1,
31 1987, there shall be allowed as a credit against the “tax” (as defined
32 by Section 23036) an amount determined in accordance with
33 Section 41 of the Internal Revenue Code, except as follows:

34 (a) For each taxable year beginning before January 1, 1997,
35 both of the following modifications shall apply:

36 (1) The reference to “20 percent” in Section 41(a)(1) of the
37 Internal Revenue Code is modified to read “8 percent.”

38 (2) The reference to “20 percent” in Section 41(a)(2) of the
39 Internal Revenue Code is modified to read “12 percent.”

- 1 (b) (1) For each taxable year beginning on or after January 1,
2 1997, and before January 1, 1999, both of the following
3 modifications shall apply:
- 4 (A) The reference to “20 percent” in Section 41(a)(1) of the
5 Internal Revenue Code is modified to read “11 percent.”
6 (B) The reference to “20 percent” in Section 41(a)(2) of the
7 Internal Revenue Code is modified to read “24 percent.”
- 8 (2) For each taxable year beginning on or after January 1, 1999,
9 and before January 1, 2000, both of the following shall apply:
- 10 (A) The reference to “20 percent” in Section 41(a)(1) of the
11 Internal Revenue Code is modified to read “12 percent.”
12 (B) The reference to “20 percent” in Section 41(a)(2) of the
13 Internal Revenue Code is modified to read “24 percent.”
- 14 (3) For each taxable year beginning on or after January 1, 2000,
15 both of the following shall apply:
- 16 (A) The reference to “20 percent” in Section 41(a)(1) of the
17 Internal Revenue Code is modified to read “15 percent.”
18 (B) The reference to “20 percent” in Section 41(a)(2) of the
19 Internal Revenue Code is modified to read “24 percent.”
- 20 (4) For each taxable year beginning on or after January 1, 2014,
21 and before January 1, 2015, both of the following shall apply:
- 22 (A) The reference to “20 percent” in Section 41(a)(1) of the
23 Internal Revenue Code shall not be modified.
24 (B) The reference to “20 percent” in Section 41(a)(2) of the
25 Internal Revenue Code is modified to read “29 percent.”
- 26 (5) For each taxable year beginning on or after January 1, 2015,
27 and before January 1, 2016, both of the following shall apply:
- 28 (A) The reference to “20 percent” in Section 41(a)(1) of the
29 Internal Revenue Code is modified to read “25 percent.”
30 (B) The reference to “20 percent” in Section 41(a)(2) of the
31 Internal Revenue Code is modified to read “34 percent.”
- 32 (6) For each taxable year beginning on or after January 1, 2016,
33 and before January 1, 2017, both of the following shall apply:
- 34 (A) The reference to “20 percent” in Section 41(a)(1) of the
35 Internal Revenue Code is modified to read “30 percent.”
36 (B) The reference to “20 percent” in Section 41(a)(2) of the
37 Internal Revenue Code is modified to read “39 percent.”
- 38 (7) For each taxable year beginning on or after January 1, 2017,
39 and before January 1, 2018, both of the following shall apply:

1 (A) The reference to “20 percent” in Section 41(a)(1) of the
2 Internal Revenue Code is modified to read “35 percent.”

3 (B) The reference to “20 percent” in Section 41(a)(2) of the
4 Internal Revenue Code is modified to read “40 percent.”

5 (8) For each taxable year beginning on or after January 1, 2018,
6 both of the following shall apply:

7 (A) The reference to “20 percent” in Section 41(a)(1) of the
8 Internal Revenue Code is modified to read “40 percent.”

9 (B) The reference to “20 percent” in Section 41(a)(2) of the
10 Internal Revenue Code is modified to read “25 percent.”

11 (c) (1) With respect to any expense paid or incurred after the
12 operative date of Section 6378, Section 41(b)(1) of the Internal
13 Revenue Code is modified to exclude from the definition of
14 “qualified research expense” any amount paid or incurred for
15 tangible personal property that is eligible for the exemption from
16 sales or use tax provided by Section 6378.

17 (2) “Qualified research” and “basic research” shall include only
18 research conducted in California.

19 (d) The provisions of Section 41(e)(7)(A) of the Internal
20 Revenue Code shall be modified so that “basic research,” for
21 purposes of this section, includes any basic or applied research
22 including scientific inquiry or original investigation for the
23 advancement of scientific or engineering knowledge or the
24 improved effectiveness of commercial products, except that the
25 term does not include any of the following:

26 (1) Basic research conducted outside California.

27 (2) Basic research in the social sciences, arts, or humanities.

28 (3) Basic research for the purpose of improving a commercial
29 product if the improvements relate to style, taste, cosmetic, or
30 seasonal design factors.

31 (4) Any expenditure paid or incurred for the purpose of
32 ascertaining the existence, location, extent, or quality of any deposit
33 of ore or other mineral (including oil and gas).

34 (e) (1) In the case of a taxpayer engaged in any
35 biopharmaceutical research activities that are described in codes
36 2833 to 2836, inclusive, or any research activities that are described
37 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
38 Industrial Classification (SIC) Manual published by the United
39 States Office of Management and Budget, 1987 edition, or any
40 other biotechnology research and development activities, the

1 provisions of Section 41(e)(6) of the Internal Revenue Code shall
2 be modified to include both of the following:

3 (A) A qualified organization as described in Section
4 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
5 institution of higher education as described in Section 3304(f) of
6 the Internal Revenue Code.

7 (B) A charitable research hospital owned by an organization
8 that is described in Section 501(c)(3) of the Internal Revenue Code,
9 is exempt from taxation under Section 501(a) of the Internal
10 Revenue Code, is not a private foundation, is designated a
11 “specialized laboratory cancer center,” and has received Clinical
12 Cancer Research Center status from the National Cancer Institute.

13 (2) For purposes of this subdivision:

14 (A) “Biopharmaceutical research activities” means those
15 activities that use organisms or materials derived from organisms,
16 and their cellular, subcellular, or molecular components, in order
17 to provide pharmaceutical products for human or animal
18 therapeutics and diagnostics. Biopharmaceutical activities make
19 use of living organisms to make commercial products, as opposed
20 to pharmaceutical activities that make use of chemical compounds
21 to produce commercial products.

22 (B) “Other biotechnology research and development activities”
23 means research and development activities consisting of the
24 application of recombinant DNA technology to produce
25 commercial products, as well as research and development
26 activities regarding pharmaceutical delivery systems designed to
27 provide a measure of control over the rate, duration, and site of
28 pharmaceutical delivery.

29 (f) In the case where the credit allowed by this section exceeds
30 the “tax,” the excess may be carried over to reduce the “tax” in
31 the following year, and succeeding years if necessary, until the
32 credit has been exhausted.

33 (g) For each taxable year beginning on or after January 1, 1998,
34 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
35 Internal Revenue Code, relating to contract research expenses, is
36 modified to read “this part or Part 10 (commencing with Section
37 17001).”

38 (h) (1) For each taxable year beginning on or after January 1,
39 2000:

1 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
2 the Internal Revenue Code is modified to read “one and forty-nine
3 hundredths of one percent.”

4 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
5 the Internal Revenue Code is modified to read “one and
6 ninety-eight hundredths of one percent.”

7 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
8 the Internal Revenue Code is modified to read “two and forty-eight
9 hundredths of one percent.”

10 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
11 election under Section 41(c)(4)(A) of the Internal Revenue Code
12 may be made for any taxable year of the taxpayer beginning on or
13 after January 1, 1998. That election shall apply to the taxable year
14 for which made and all succeeding taxable years unless revoked
15 with the consent of the Franchise Tax Board.

16 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
17 gross receipts, is modified to take into account only those gross
18 receipts from the sale of property held primarily for sale to
19 customers in the ordinary course of the taxpayer’s trade or business
20 that is delivered or shipped to a purchaser within this state,
21 regardless of f.o.b. point or any other condition of the sale.

22 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
23 election of the alternative simplified credit, shall not apply.

24 (i) Section 41(h) of the Internal Revenue Code, relating to
25 termination, shall not apply.

26 (j) Section 41(g) of the Internal Revenue Code, relating to
27 special rule for passthrough of credit, is modified by each of the
28 following:

29 (1) The last sentence shall not apply.

30 (2) If the amount determined under Section 41(a) of the Internal
31 Revenue Code for any taxable year exceeds the limitation of
32 Section 41(g) of the Internal Revenue Code, that amount may be
33 carried over to other taxable years under the rules of subdivision
34 (f), except that the limitation of Section 41(g) of the Internal
35 Revenue Code shall be taken into account in each subsequent
36 taxable year.

37 (k) Section 41(a)(3) of the Internal Revenue Code shall not
38 apply.

1 (l) Section 41(b)(3)(D) of the Internal Revenue Code, relating
 2 to amounts paid to eligible small businesses, universities, and
 3 federal laboratories, shall not apply.

4 (m) Section 41(f)(6) of the Internal Revenue Code, relating to
 5 energy research consortium, shall not apply.

6 SEC. 9. Section 23687 is added to the Revenue and Taxation
 7 Code, to read:

8 23687. (a) For each taxable year beginning on or after January
 9 1, 2014, there shall be allowed to a qualified taxpayer as a credit
 10 against the “tax,” as defined in Section 23036, an amount equal
 11 to 25 percent of the amount of a qualified contribution that is made
 12 by a qualified taxpayer in that taxable year.

13 (b) For purposes of this section, the following terms have the
 14 following meanings:

15 (1) “Qualified contribution” means a monetary contribution by
 16 a business entity to a regionally accredited postsecondary
 17 educational institution for curriculum or research leading to job
 18 opportunities in the private sector, or consultation services
 19 associated with the establishment of curriculum or research leading
 20 to job opportunities in the private sector, where the business entity
 21 and the postsecondary educational institution agree that there is a
 22 substantial potential for the future employment of students as a
 23 result of the contribution.

24 (2) “Qualified taxpayer” means a business entity that makes a
 25 qualified contribution to a postsecondary educational institution.

26 (c) In the case where the credit allowed by this section exceeds
 27 the “tax,” the excess may be carried over to reduce the “tax” in
 28 the following taxable year, and succeeding nine taxable years if
 29 necessary, until the credit is exhausted.

30 (d) (1) The Franchise Tax Board may prescribe rules,
 31 guidelines, or procedures necessary or appropriate to carry out the
 32 purposes of this section, including, but not limited to:

33 (A) Requiring the regionally accredited postsecondary institution
 34 to provide the taxpayer with a tax credit certificate that the taxpayer
 35 can use to document the contribution. The certificate shall be on
 36 a form prescribed by the Franchise Tax Board.

37 (B) Requiring the regionally accredited postsecondary institution
 38 to annually provide a list to the Franchise Tax Board of each
 39 taxpayer that made a contribution and was issued a certificate
 40 during the tax year. The list shall include the name of the taxpayer,

1 the taxpayer's tax ID number, identification of the type of
2 curriculum or research to be developed, and the amount of money
3 contributed.

4 (C) Requiring the regionally accredited postsecondary institution
5 to retain a record of the contribution and use of the funds for 10
6 years following the first year in which the institution reported the
7 contribution pursuant to subparagraph (B).

8 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code does not apply to
10 any standard, criterion, procedure, determination, rule, notice, or
11 guideline established or issued by the Franchise Tax Board
12 pursuant to this section.

13 SEC. 10. The provisions of this act are severable. If any
14 provision of this act or its application is held invalid, that invalidity
15 shall not affect other provisions or applications that can be given
16 effect without the invalid provision or application.

17 SEC. 11. Notwithstanding Section 2230 of the Revenue and
18 Taxation Code, no appropriation is made by this act and the state
19 shall not reimburse any local agency for any sales and use tax
20 revenues lost by it under this act.

21 SEC. 12. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to support the innovation and entrepreneurial activity
26 that is critical to the state's economic growth and prosperity, it is
27 necessary that this act take effect immediately.